

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

ALISE MALIKYAR and ROBERT
JACOBSEN,

No. C 07-03533 WHA

Plaintiffs,

v.

**ORDER RE EMOTIONAL
DISTRESS DAMAGES**

JOHN SRAMEK, BERNADETTE
SRAMEK, HAROLD M. JAFFE, JOHN S.
SRAMEK AND BERNADETTE
SRAMEK REMOVABLE LIVING
TRUST AND DOES 1 TO 100, inclusive,

Defendants.

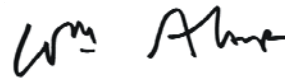
At the pre-trial conference, defendants moved to exclude plaintiffs' claims of emotional distress because of failure to disclose such claims. Plaintiffs could not cite to anything showing to the contrary. Giving plaintiffs another chance, the Court stated they could file a written response citing where they had disclosed a claim for damages based on emotional distress. The submission deadline was Wednesday, June 3, 2009 at noon. The deadline came and plaintiffs filed a submission. Plaintiffs, however, apparently did not file the correct cover memorandum. Although the docket entry is titled "Trial Brief re Damages," the document in fact was plaintiffs' previously filed motion in limine (Dkt. No. 236). The judge's secretary called counsel to point out that the cover memorandum was previously filed and the attachments did not correspond. In the meantime, no further supplemental documents have been filed. Upon further study, the Court has discerned that the attached documents were addressed to the

1 damages issue for which leave to supplement was granted. The Court has reviewed the
2 attachments and has concluded that further submissions are unnecessary to resolve the matter.

3 Contrary to defendants' assertion at the conference, plaintiff Alise Malikyar disclosed a
4 species of emotional distress in her initial disclosures as follows: "Plaintiff also seeks to
5 recover general damages for the fear and anxiety the violation of her attorney-client
6 confidentiality, in the amount of \$11,000,000.00." Therefore, she will be permitted to attempt
7 to prove a violation of her attorney-client confidentiality that caused her fear and anxiety. On
8 the other hand, plaintiff Robert Jacobsen did not specifically disclose emotional distress
9 damages and will not be able to claim such damages.

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11 **IT IS SO ORDERED.**

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13 Dated: June 4, 2009.



14 WILLIAM ALSUP
15 UNITED STATES DISTRICT JUDGE
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